

CARL J. KUNASEK
CHAIRMAN

JIM IRVIN
COMMISSIONER

WILLIAM A. MUNDELL
COMMISSIONER

OPEN MEETING ITEM



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ARIZONA CORPORATION COMMISSION

RECEIVED SECURITIES DIVISION
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2000 MAR 29 10:54 AM

MEMORANDUM

TO: Chairman Carl J. Kunasek
Commissioner Jim Irvin
Commissioner William A. Mundell

FROM: Mark Sendrow *MS*
Director of Securities

DATE: March 29, 2000

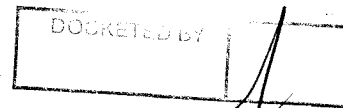
RE: Proposed Order for Relief and Consent to Same: Thomas O. Tabat, Docket No. S-03374A-99-0000

CC: Brian C. McNeil, Executive Secretary

CORP COMMISSION
DOCUMENT CONTROL

Arizona Corporation Commission
DOCKETED

MAR 29 2000



Attached is a proposed Order for Relief and Consent to Same, fully executed by Respondent Thomas O. Tabat, ordering Tabat to cease and desist from violations of the Securities Act, and to pay penalties for the sale of unregistered and non-exempt securities in the form of investment contracts involving the sale and/or operation of pay telephones, cash ticket machines, and a hotel long distance and operator service.

Tabat's securities salesman's registration will be revoked, and Tabat has agreed not to reapply for registration as a securities salesman or dealer, or licensing as an investment advisor or investment advisor representative in Arizona at any time in the future, pursuant to the proposed Order.

Tabat sold these securities to four investors, including sales while he was registered as a securities salesman under Legacy Financial Services, Inc., a registered dealer in Arizona. Tabat did not report his activity to his dealer, and the transactions were not recorded on the books and records of his dealer, as required. Tabat terminated his employment with Legacy in August 1999, and his registration was suspended in Arizona when the Division filed its Notice in this matter.

Tabat has agreed to pay \$5,000 in penalties. This Order does not release Tabat from any fraud violations, and Tabat has agreed to cooperate with the Division in connection with any investigation or hearing regarding the allegations asserted in this matter or any related matters. To date, investors are receiving their monthly payments from these investments.

Originator: Pam Johnson
AG Assigned: Robert Zumoff

1200 WEST WASHINGTON, PHOENIX, ARIZONA 85007 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701

www.cc.state.az.us

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK

Chairman

3 JIM IRVIN

Commissioner

4 WILLIAM A. MUNDELL

Commissioner

5 In the matter of)

6 WILLIAM E. BERGH, individually and d/b/a)

7 NATIONAL FINANCIAL GROUP)

13311 North 65th Drive)

8 Glendale, AZ 85304)

And)

9 11024 N. 28th Drive, Ste. 200)

Phoenix, AZ 85029)

10 CRD 1409200)

11 THOMAS OTTO TABAT)

24435 N. 38th Lane)

12 Glendale, AZ 85310)

13 CRD 1011671,)

14 Respondents.)

DOCKET NO. S-03374A-99-0000

DECISION NO. _____

**FINAL ORDER FOR RELIEF AND
CONSENT TO SAME FOR
THOMAS OTTO TABAT**

15 **I.**

16 **INTRODUCTION**

17 THOMAS OTTO TABAT (TABAT) elects to permanently waive his rights to a hearing and
18 appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801, et seq. (the Act), with
19 respect to this Final Order for Relief and Consent to Same (the Order); admits the jurisdiction of the
20 Arizona Corporation Commission (Commission); neither admits nor denies the Findings of Fact and
21 Conclusions of Law contained in the Order; and consents to entry of the Order by the Commission.

22 **II.**

23 **FINDINGS OF FACT**

24 1. TABAT, whose last known address is 24435 N. 38th Lane, Glendale, AZ 85310, was
25 registered with the Commission as a securities salesman with Legacy Financial Services, Inc. (Legacy)
26 from February 1998 to June 1999.

2. From November 1998 through August 1999, including several months of the time period that TABAT was registered with Legacy, TABAT offered and sold investments including securities in the form of investment contracts and/or evidences of indebtedness.

3. The investments were promoted as "private placements" or "business opportunities" involving pay telephones and cash ticket machines, from which investors were to receive monthly profits.

4. From November 1998 through August 1999, TABAT offered or sold, or participated in the offer or sale of the following “private placement” investments to four investors:

a) Pay telephones sold by B.E.E. Communications, Inc. at a unit cost of \$6,750, together with Lease Agreements with ETS Payphones, Inc., for monthly payments to investors of \$80.00 per month per unit.

b) Membership interests in a limited liability company, Hotel Connect LLC, for a profit paid monthly from the operations of a hotel long distance and operator service.

c) Cash Ticket Machine (CTM) equipment sold by World Cash Providers, LLC (WCP), together with “Services Agreements” with World Cash Providers, Inc. to operate and maintain the equipment for a share in the monthly profit from anticipated revenue.

5. TABAT neither requested nor received approval from Legacy to engage in the offer or sale of the investments.

6. TABAT's sales of these investments were not recorded on the books and records of Legacy.

III.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and pursuant to the Act.

2. From November 1998 to August 1999, TABAT offered and/or sold securities in the form of investment contracts or evidences of indebtedness within and/or from Arizona.

3. The securities referred to above were not registered under A.R.S. §§ 44-1871 through 44-1875, or 44-1891 through 44-1902; were not securities for which a notice filing has been made under A.R.S. § 44-3321; were not exempt under A.R.S. §§ 44-1843 or 44-1843.01; were not offered or sold in exempt transactions under A.R.S. § 44-1844; and were not exempt under any rule or order promulgated by the Commission. This conduct constitutes a violation of A.R.S. § 44-1841.

4. TABAT's conduct constitutes grounds for the Commission to order him to cease and desist from violations of the Act, pursuant to A.R.S. § 44-2032.

5. TABAT's conduct constitutes grounds for the Commission to order penalties, pursuant to A.R.S. § 44-2036.

6. TABAT's conduct constitutes grounds for the revocation of TABAT's registration as a securities salesman with the Commission, pursuant to A.R.S. § 44-1962, based upon the following:

(a) TABAT has engaged in practices specified by A.R.S. § 44-1962(2) on the grounds that he offered and/or sold unregistered securities in violation of A.R.S. § 44-1841.

(b) TABAT has engaged in practices specified by A.R.S. § 44-1962(10) and A.A.C. Rule R14-4-130(A)(17). Specifically, many of his sales of the above-described investments occurred while he was registered with Legacy but were not recorded on the books and records of Legacy.

IV.

ORDER

THEREFORE, on the basis of the Findings of Fact and Conclusions of Law, the Commission finds that the following Order is appropriate, in the public interest and necessary for the protection of investors.

1 1. IT IS ORDERED, pursuant to A.R.S. § 44-2032, that THOMAS O. TABAT and any
2 agents, servants, employees, successors, or persons in active concert or participation with him,
3 permanently CEASE and DESIST from violations of the Securities Act of Arizona.

4 2. IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that TABAT shall pay
5 administrative penalties in the amount of \$5,000, together with interest to accrue at the statutory rate of
6 10% per annum. Payment shall be made by cashier's checks, and may be paid as follows: \$1,000 upon
7 entry of this Order, and no less than \$184.01 per month on or before the 1st day of each month beginning
8 on May 1, 2000, until paid in full. Such checks are to be made payable to the "State of Arizona" for
9 deposit in the General Fund of the state.

10 3. IT IS FURTHER ORDERED that upon failure to pay any amount when due pursuant to
11 this Order, the full amount of penalties shall be immediately due and payable, with interest to accrue at
12 the statutory rate of 10% per annum.

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1 4. IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-1962, that TABAT's securities
2 salesman registration is revoked from the date of the Order.

3 5. IT IS FURTHER ORDERED that this Order shall become effective immediately upon the
4 date set forth below.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION
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7
8

9 CHAIRMAN

COMMISSIONER

COMMISSIONER

10 IN WITNESS WHEREOF, I, Brian C. McNeil, Executive
11 Secretary of the Arizona Corporation Commission, have
12 hereunto set my hand and caused the official seal of the
13 Commission to be affixed at the Capitol, in the City of
14 Phoenix, this ____ day of _____, 2000.

15 _____
16 BRIAN C. McNEIL
17 Executive Secretary

18 _____
19 DISSENT
20 (PTJ)

21 This document is available in alternative formats by contacting Cynthia Mercurio-Sandoval, ADA
22 Coordinator, voice phone number 602/542-0838, E-mail csandoval@cc.state.az.us.
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24
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CONSENT BY THOMAS OTTO TABAT TO THE ENTRY, BY THE CORPORATION
COMMISSION, OF A FINAL ORDER FOR RELIEF AND WAIVER OF HEARING

1. Respondent, THOMAS OTTO TABAT (TABAT) admits the jurisdiction of the Arizona Corporation Commission (Commission) over the subject matter of this proceeding, and acknowledges that he has been fully advised of his right to a hearing to present evidence and call witnesses. TABAT knowingly and voluntarily waives all rights to a hearing before the Commission and all other procedures otherwise available under Article 11 of the Securities Act of Arizona (the Act) and Title 14 of the Arizona Administrative Code. TABAT acknowledges that the accompanying Final Order for Relief and Consent to Same (Order) constitutes a valid final order duly rendered by the Commission.

2. TABAT knowingly and voluntarily waives any right he may have under Article 12 of the Act to judicial review by any court by way of suit, appeal or extraordinary relief resulting from the entry of this Order.

3. TABAT acknowledges and agrees that this Order is entered into freely and voluntarily and that no promise was made nor any coercion used to induce TABAT to enter into it.

4. TABAT acknowledges that he has been represented by counsel in this matter.

5. TABAT neither admits nor denies the Findings of Fact and Conclusions of Law contained in the Order. TABAT agrees that he shall not challenge their validity in any present or future administrative proceedings before the Commission or any other state agency concerning the denial or issuance of any licenses or registrations required by the State in order to engage in the practice of any business or profession.

6. TABAT consents to the entry of this Order and agrees to be fully bound by its terms and conditions. TABAT further acknowledges that should he fail to comply with the provisions of this Order, the Commission may enforce the Order in Superior Court, pursuant to A.R.S. § 44-2036(C). In

1 addition, the Commission may impose additional sanctions and costs and seek other appropriate relief
2 subject to TABAT's right to a hearing pursuant to the Act.

3 7. TABAT further understands that default will render him liable to the Commission for
4 its costs of collection and interest at the maximum legal rate.

5 8. TABAT agrees that, as a part of the settlement reached herein, he will not apply for
6 registration as a securities dealer or salesman, or for licensure as an investment adviser or investment
7 adviser representative, under the Securities Act of Arizona or the Investment Management Act of
8 Arizona, at any time in the future.

9 9. TABAT acknowledges that this Order resolves only alleged administrative violations of
10 the Act and that nothing contained in the Order purports to resolve any other issues, which may exist
11 between TABAT and the State. Nothing in the Order shall be construed to restrict or preclude any
12 other agency or officer of the State of Arizona or its subdivisions from initiating other administrative,
13 civil or criminal proceedings against TABAT, now or in the future, that may be related to the matters
14 addressed by the Order. Nothing in the Order shall be construed to restrict the State's right in a future
15 proceeding to bring an action against TABAT from or related to facts not set forth in the Order.

16 10. TABAT acknowledges that the Order represents the complete and final resolution of, and
17 discharge of any basis for any civil or administrative proceeding by the Commission against TABAT
18 for violations arising as a result of or in connection with any actions or omissions by TABAT, pursuant
19 to A.R.S. § 44-1841; provided, however, this release does not apply to facts not known by the
20 Commission or staff or not otherwise provided by TABAT as of the date of the Order; provided further
21 that this release does not apply to violations arising from misrepresentations or omissions by TABAT in
22 connection with the offer or sale of securities, in violation of A.R.S § 44-1991.

23 11. TABAT states that as a part of the settlement reached herein, he will continue to
24 cooperate with the Securities Division (Division) in connection with this matter including, but not
25 limited to, providing a complete and accurate financial statement under penalty of perjury, providing
26

1 complete and accurate testimony at any hearing in this matter as may be requested by the Division, and
2 cooperating with the Division regarding the allegations in the present matter and any other matters
3 touching thereon.

4
5
6 Thomas Otto Tabat
THOMAS OTTO TABAT

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9 SUBSCRIBED TO AND SWORN BEFORE me this 24th day of March, 2000,
10 by THOMAS OTTO TABAT.

11
12 Stacey Beehler
NOTARY PUBLIC

13 My Commission Expires:

